

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Yucaipa Mobilehome Residents' Association ("YMRA"), a California nonprofit corporation, by Len Tyler, President of YMRA, as representative of the residents of Knollwood Mobilehome Park; Edna Jenkins, a represented Member of YMRA, an individual and resident Of Knollwood Mobilehome Park; and Nancy L. Carlisle, a represented member of YMRA, an Individual and resident of Knollwood Mobilehome Park,

Complainants,

vs.

Knollwood Mobilehome Estates, Ltd.,
a California Partnership, doing business as
Knollwood Mobilehome Estates,

Defendant.

Case 01-06-008
(Filed June 4, 2001)

**ADMINISTRATIVE LAW JUDGE'S RULING
GRANTING MOTION TO DISMISS IN PART**

1. Summary

Knollwood Mobilehome Estates (Knollwood) moves to dismiss all or part of this complaint on grounds that the Commission lacks jurisdiction. The motion is granted in part.

2. Background

Complainants, representing residents of the mobilehome park, contest a capital improvement rent increase approved by the City of Yucaipa Rent Review Commission in 1999. The rent increase (\$17.40 per month for 20 years) covered cost of work on gas, electric and water facilities within the park.

Knollwood asserts that the improvements cost more than \$500,000 and that its application for a \$250,000 rent adjustment excluded all costs that would be subject to the jurisdiction of this Commission. Complainants allege that some of the costs are subject to the exclusive jurisdiction of this Commission and should not have been approved by the Rent Review Commission.

3. Motion to Dismiss

Pub. Util. Code § 739.5 requires a master-meter customer, such as Knollwood, to charge tenants the same rate that a public utility would charge tenants if it provided them natural gas and electric service directly. The Commission has exclusive jurisdiction to administer § 739.5 and to set the rates the statute authorizes.

Pub. Util. Code § 2705.5 provides that the Commission has jurisdiction over water service in a mobilehome park if the park owner both submeters the water and charges a rate that is different than the rate that would be charged if tenants were receiving water directly from a water corporation. It is undisputed that Knollwood does not submeter its water, and water service is included in the monthly rent. Moreover, Knollwood receives its water from Yucaipa Valley Water District, a public district not subject to the jurisdiction of this Commission. The Commission has held that § 2705.5 applies only to those mobilehome parks that obtain water from Commission-regulated water utilities. (*In re Rates* (2001) Decision 01-05-058.)

It follows that costs of the rent increase attributable to capital improvements of the water system at Knollwood (estimated in the complaint to be \$58,768 for the water system and \$111,445 for associated trenching and other work) are not subject to the jurisdiction of this Commission.

In their response to the motion to dismiss, complainants agree with this analysis. They state that they do not now seek adjustment for replacement costs of the water system. However, they do seek adjustment for trenching costs if it can be shown that trenching was done to serve gas and electric system work.

Knollwood also moves to dismiss those portions of the complaint that seek adjustment for capital improvements on gas and electrical components between the submeter and each individual mobilehome. Section 739.5(d) provides that the park owner is responsible for the costs of operating, maintaining and repairing the submeter system between the master-meter and the individual meters of the mobilehomes, not for the cost of maintenance between an individual meter and a mobilehome. (*Steiner v. Palm Springs Mobilehome Properties* (1997) 73 CPUC2d 369.) Complainants do not challenge this assertion.

Accordingly, the motion to dismiss is granted as to those allegations of the complaint that seek adjustment of the rent increase attributable to capital improvements of the water system and as to those allegations of the complaint that seek adjustment of the rent increase attributable to capital improvements that took place between an individual meter and a mobilehome.

This ruling does not at this time address Knollwood's motion for dismissal based on other grounds, including principles of res judicata, laches and estoppel.

The assigned Administrative Law Judge will confer with the parties on the next procedural steps in this proceeding.

IT IS RULED that the motion to dismiss is granted as to those allegations of the complaint that seek adjustment of the rent increase attributable to capital improvements of the water system and as to those allegations of the complaint that seek adjustment of the rent increase attributable to capital improvements that took place between an individual meter and a mobilehome. In all other respects, the motion to dismiss is at this time denied.

Dated November 27, 2001, at San Francisco, California.

/s/ GLEN WALKER

Glen Walker
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Granting Motion to Dismiss in Part on all parties of record in this proceeding or their attorneys of record.

Dated November 27, 2001, at San Francisco, California.

/s/JACQUELINE GORZUCH

Jacqueline Gorzoch

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.